

## Notes from the Caltrans Statewide PA Teleconference 4/08/04

### Intro

Greg King welcomed everyone and announced that Wayne Donaldson has been appointed the new CA-SHPO. He is not expected to actually take over until June or July so Steve Mikesell (a former Caltrans historian) will continue to serve as Acting SHPO. After that time Mikesell will resume his position as Deputy SHPO. He also noted that the Caltrans Workers Memorial was held earlier today, and reminded everyone to be safe out there.

Other participants at HQ were: Dana Supernowicz, Jill Hupp, Margaret Buss, Katrina Pierce and (by phone) Glenn Gmoser, Dorene Clement, Bob Pavlick and Dale Jones.

### Action Items from February meeting – follow up:

**Margaret** reported that she has discussed the 30 days “move on/don’t move on” issue with FHWA, and FHWA identified 5 situations in which the agency wants a letter from SHPO for NEPA purposes:

1. if there will be an EIR
2. if the eligible/not eligible determination is not “clear cut”
3. if the property will be subject to 4(f)
4. if it is an unusual property type
5. if the eligibility determination is likely to be controversial

She will distribute the guidelines for this to cultural staff following FHWA review. She noted that in most cases, SHPO *will* attempt to either respond within the 30 days or ask Caltrans to extend the time. She suggested that if one of the above situations applies, it might be a good idea to state in our transmittal letter to SHPO that we want a letter response and agree upfront to extend the time if necessary. Alternately we could wait until the 30 days are up and if we haven’t heard from SHPO, contact them to say we need a letter. **Jill** will check with SHPO to confirm whether they want us to handle such contacts through the 106 Coordinators.

**Jill** stated that Dorene has come up with an idea for estimating the time savings for exempting properties. It works from a land basis, such as by city block or rural mile, etc., rather than by number and type of properties.

**Dorene** said it is geared toward making this task less onerous, as her proposed method would avoid the counting of properties.

**Greg** said we would like the districts to review the draft proposal and/or suggest other ideas. HQ will send something out by the end of the month.

## PA Consistency reviews – comments:

**Jill** noted that documents should list PQS certification level rather than civil service classification, and that HPSRs and attached technical reports coming to HQ for PA consistency review need to be signed by the approving PQS (if not prepared by PQS). This is how Caltrans shows compliance with Stipulation XVI of the PA, which requires that all documents being transmitted to SHPO or FHWA have been approved by Caltrans PQS. Caltrans policy also requires that the EBC sign/approve all documents. Lengthy discussion followed, ending with a clarification that an HPSR, whether text based or a short form, is signed by PQS.

**Jill** also noted that we are starting to see rehabilitation projects with a No Adverse Effect with Standard Conditions that do not have adequate documentation, such as plans and specs, to support the finding or demonstrate how Caltrans will ensure that the project meets the Secretary of the Interior's Standards. The SHPO is very concerned about this. We realize it wasn't discussed much in the PA Training and HQ plans to issue some further guidance soon, probably in the form of a "106 Bulletin."

**Glenn** and **Dorene** reported that the PA field reviews they are conducting with the assistance of outside District personnel to help ensure statewide consistency and quality control have shown that Districts 7 and 8 are doing a great job of complying with the PA. Districts 7 and 8 staff, in turn, said that the visits had been very helpful and are an opportunity to hear what others are doing and share information. The field review teams and schedules are still being planned in conjunction with the ten remaining Districts, with things likely to be firmed up in the next two or three weeks.

## Questions and Answers

- Q.** PA training for locals – is HQ providing any? We need to be sure we're presenting consistent information statewide.
- A. Margaret:** We agree statewide consistency is desirable. HQ has been providing very basic training "by invitation" of the districts. We're available, or can send you our materials. We've tailored it for non-specialists to avoid information overload. Some consultants have requested training, so we may look for a venue for that. Some districts wanted to do their own training. If you do give any training, please let us know what people do *not* understand so we have an idea of what to target.
- Q.** Which discipline can sign/approve the APE map? Should it be both the architectural historian and the archaeologist? What discipline level can sign?
- A. Dana:** Either discipline can approve the APE. It's implicit, in the way we do our studies, that the archaeologist and architectural historian consult each other about the APE delineation. We are not *requiring* both signatures, as this could pose a burden on districts that don't have an architectural historian on the premises. As for the level, any PQS above crewmember can sign.
- Q.** I am a certified PQS but I supervise PQS in a discipline other than my own. Can I sign technical studies in that discipline as the approving PQS?

- A. Dana:** No. When the report is prepared by a non-PQS in one discipline, the PQS approving that report has to be certified in that discipline.
- Margaret:** Not to confuse PQS approval with peer review. For example, D1 doesn't have an architectural historian so they send documents to HQ for peer review, we comment, and then they send it back to us so we can verify that the comments were addressed. At that point, we are also the PQS for approval purposes.
- Q.** The sample memo for screened undertakings in the PA training workbook is very helpful. I'm wondering, though if both disciplines need to write a memo, or can one memo indicate that an archaeologist and architectural historian did the screening?
- A. Margaret:** A single memo is preferable. You will have input from both disciplines anyway, and it will be less confusing down the line. We are already seeing some mix-ups with this.
- Q.** Our project has no archaeological properties and one built environment property (a house) that requires evaluation for National Register eligibility. Can we screen the project for archaeology?
- A. Margaret:** No, because the screening process applies to the undertaking as a whole, not to each discipline, so you would report the archaeological findings in an ASR.
- Q.** I have a project that does not seem to exactly fit into any of the classes of screened undertakings. Yet the project has *no* potential to affect any historic properties. It seems like overkill to do a full-blown study.
- A. Margaret:** It definitely is limited to those activities. The way the PA is set up, screening is what you come to before you even get to the 106 process. If a project doesn't meet one or more of those classes of activities, you have to cross over the bridge into 106.
- Glenn:** Remember, though, to document appropriately. If you don't have any properties, you don't need a 300-page HPSR – it can be two pages and a map.
- Q.** Do I need to have an APE map for a screened undertaking?
- A. Jill:** No, it wouldn't be an "APE Map," since defining an APE is the first step of the 106 process and by screening, you haven't "crossed the bridge" into 106. But presumably you would have some sort of Project Map to show the extent of the area subject to potential so that you know what you've screened.
- Q.** Before the PA we could send our HPSR, FOE and draft MOA to FHWA as one submittal. Now I've been told that under the PA I have to submit the HPSR to SHPO first, and send the FOE and MOA to FHWA separately. Why? It saves time to send everything at once.
- A. Jill:** It actually isn't a time savings to send everything anymore. Under the PA, FHWA consults with SHPO on Adverse Effect findings, so the FOE and draft MOA need to go to them for forwarding to SHPO. The exception is when the property is eligible exclusively under D - then we can send concurrent submittals to SHPO and FHWA. But otherwise, there's no point in us sending it to SHPO as one submittal

because SHPO won't do anything with the FOE/MOA unless it comes from FHWA, *and* we'd be out of compliance with PA. The PA was written this way because FHWA wanted to be directly involved with projects that may have 4(f) involvement.

There is still a time savings, though, by us getting to go directly to SHPO with our eligibility determinations and in not having our HPSRs in review at FHWA for however long that takes. Also, we no longer have to request SHPO concurrence on the APE and level of effort – so it's a 30-day review period for eligibility only, down from 90 days under the regs.

- Q.** When an archaeological property is "considered eligible" for the purposes of the project only in accordance with Stipulation VIII.C.3, do I need to get SHPO concurrence in this finding?
- A. Jill/Glenn:** No, because what the PA is saying here is that SHPO agrees upfront that if we meet all the requirement of Stip VIII.C.3, the property may be "considered eligible." The new HPSR form has a checkbox for this category of property. Part of the deal, though, in being able to consider the property to be eligible is our guarantee that we can protect the property by use and effective enforcement of an ESA – so be sure to provide enough documentation to support the decision to use the ESA and how it will be implemented and enforced.
- Q.** I have an APE map signed by FHWA prior to the PA. Do I need to do a whole new map with the PM and PQS signatures?
- A. Jill:** No, not just for the sake of doing a new map. As long as the PQS finds that it is consistent with the guidelines of Attachment 3 of the PA, it's OK to just add the PQS and PM or DLAE signatures to the existing map. On the other hand, there are times when it might be advantageous to take a fresh look at an old APE – our old rule of thumb about always including the first row of properties beyond the right of way, for instance, is no longer applicable. So if you see an APE includes adjacent properties and the project doesn't have potential for indirect effects, it's worth considering whether that APE could be pulled in, even if studies are already done and the report is ready to go. There's no reason to submit eligibility determinations to SHPO for properties that aren't actually subject to potential effects.
- Q.** In the new Local Assistance Procedures Manual (LAPM) dated 1-26-04, under Exhibit 6B there are instructions for completing the Preliminary Environmental Studies (PES) form. The manual specifically states: *the local agency should not initiate cultural studies until such time as the APE map has been signed by the DLAE and the District PQS.* This has become somewhat of an issue, as the local agencies then go to the trouble to produce a precise APE map and obtain signatures, but then after they have done the field studies and identify resources partially within the APE, I have to tell them to bubble the APE out around the resource, and send a new map for new signatures. Perhaps the LAPM should state that local agencies should not initiate studies until such time as a Study Area has been approved by the PQS, and that final signature approval of the APE should be sought upon completion of any field studies. This would save the local agency and consultant some time up front, and prevent repetition of the same task of signing the APE map.

- A. **Margaret:** Are other districts having a problem with this? If so, do you have any suggestions? The main concern with requiring a Study Area is that the locals might be doing far broader studies than needed.

Most districts noted that they saw this language as problematic, and wondered if it was perhaps an anomaly, since other information in this exhibit is much more helpful. It was suggested that it might be revised to say “. . . until the *draft* APE has been reviewed by the DLAE and PQS.” Margaret will share the information to Germaine.

- Q. A lot of locals are somewhat perplexed by the whole bubbling-out of the APE to include whole resources. I think I understand, but could you restate for me why we need to do this?
- A. **Jill:** Essentially, we do it because this is how the Advisory Council defines “a property” – that is, we take into account the effects on the whole property, not a portion of a property. There’s no regulatory basis for considering effects to part of a historic property. That’s also why when we’re evaluating a long linear resource like the Transcontinental Railroad we deal with a segment of that property in the APE as being a contributor or non-contributor to the significance of the property in its entirety, not whether the segment is eligible or not eligible. In Attachment 3 of the PA where it says, “When delineating the APE, consideration must always be given to the undertaking’s potential effects on a historic property as a whole,” – this came straight from the Council. And of course our SHPO supports the Council’s view.
- Q. What about when we have a large rural property and are only taking a sliver portion of land from that parcel – do we have to include the whole parcel in the APE?
- A. **Jill:** It depends on how we define the “historic property.” It isn’t necessarily the same as the modern parcel boundary. If the part of that parcel that is subject to effects is not part of what we would define as the “historic property,” or would be a contributor to that historic property, then it’s perfectly reasonable to exclude the “historic property” from the APE. FHWA used to insist that we had to include the parcel in its entirety, regardless of size because, supposedly anything less would look like we were just trying to avoid 4(f). But they now agree that the modern parcel is not necessarily the same thing as the “historic property” for 106 and 4(f) purposes.

## Wrap-up

**Greg** threw out a general query on how folks are doing as far as addressing cultural resources in the local assistance arena. Some districts responded that it is an extra workload but manageable; others said that they are struggling and have a backlog of screened projects.

**Glenn** noted as a reminder that the screening process is supposed to be quick. It’s designed to move things along – a project can either be screened or it can’t. We’re not actually doing the studies for the locals, but merely telling them that they need to do studies and hire a consultant, or that they’re done with 106.

**Greg** asked if the districts wanted to continue holding these monthly teleconferences. It was generally agreed that folks would like them to continue, even after the 6 month HQ review period ends. It was suggested by Lynn Faraone that we might have them be

topical rather than general (e.g., focus on APE). She also suggested that perhaps one could be scheduled just immediately prior to the quarterly SHPO/FHWA/CT Partnership meeting. It was suggested that this would be an idea worth considering. Greg concluded by saying we would schedule the next meeting in approximately 4 weeks.

### **HQ Action Items:**

1. Issue guidelines on when we need a letter from SHPO for FHWA/NEPA compliance.
2. Confirm with SHPO that inquiries about project status should be handled through HQ 106 Coordinators. (*Update 4/16/04: yes, the SHPO does want Caltrans to continue this practice*).
3. Send out draft proposal on estimating time savings for exempted properties to districts for review by end of April.
4. Issue guidance on reviewing/documenting rehabilitation projects to support a finding of No Adverse Effect with Standard Conditions.
5. Set up schedule for remaining PA field visits in coordination with districts.
6. Forward questions about LAPM PES form instructions to Germaine.
7. Consider holding topical teleconferences immediately prior to the quarterly SHPO/FHWA/CT Partnership meetings.